









The Case of our Affaires,  
IN  
LAW,  
RELIGION,

And other Circumstances briefly Examined, and Presented to the  
*CONSCIENCE.*

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Printed in the Yeare, 1643.

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THE CASE OF OUR  
AFFAIRES  
IN LAW, RELIGION, AND  
OTHER CIRCUMSTANCES

by

JOHN SPELMAN

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1975

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### *Bibliographical Note*

*The case of our affaires* is one of the royalist replies to Henry Parker's *Observations upon some of his majesties late answers and expresses* London, 1642, reprinted by W. Haller in *Tracts on liberty* (New York, 1933), II, 165-213. The controversy had originated with the king's *Answer to the nineteen propositions* in June 1642. That manifesto emanated from the king's moderate civilian advisers; Clarendon tells us that it was composed by Falkland and Colepeper. The *Answer* characterised the parliamentary demands as subversive to the 'ancient, equal, happy, well-poised and never-enough commended Constitution of this Kingdom', in which monarchy, aristocracy and democracy were mixed so as to secure the benefits and avoid the ills of the pure forms. Furthermore the *Answer* while emphasising the king's executive and military powers and refusing 'to make our Self, of a King of England, a Duke of Venice, and this of a Kingdom, a Republick', admitted that the laws were 'jointly made by a King, by a House of Peers, and by a House of Commons chosen by the People, all having free Votes and particular Priviledges'. Parker's *Observations* went beyond this admission of an independent constitutional position for the houses of parliament in asserting that the king's fiduciary powers in government were derived from the people and were to be used for the benefit of the people. Moreover, the power of the people was embodied in parliament.

Sir John Spelman countered Parker's doctrine of popular sovereignty exercised by the houses of parliament by reasserting the sovereignty of the king—'there neither is, nor can be any co-ordination, nor co-equalitie of any Estate, Order, or Degree, of the Subject with the Sovereigne' (below, pp. 2-3). Yet Spelman admitted that the king was not absolute but constitutionally restrained to act in certain regular ways; for example, he can only make law with the consent of the nobles and the commons. Spelman's vindication of this view of the English constitution relies on legal and historical evidence. He apparently inherited a love of history from his father, Sir Henry Spelman, the antiquary. For an account of this constitutional controversy, see C. C. Weston, *English constitutional theory and the house of lords, 1556-1832* (New York and London, 1965), pp. 23-43; on royalist thought 1642-44, there is a brief discussion by J. W. Allen, *English Political Thought, 1603-1660* (London, 1938), I, 482-519.

Summoned by the king to Oxford, Spelman not only engaged in political pamphleteering but also attended the royal council. He died of camp fever in July 1643 before he could be appointed one of the secretaries of state and before publication of *The case of our affaires*.

Three versions of the pamphlet exist. See F. Madan, *Oxford Books* (Oxford, 1912), II, 310-311. The earliest, (Madan 1516) was printed in Oxford, probably by Henry Hall. It includes 'A discoverie of Londons obstinacie and miserie' on pp. 32-38; and its p. 11 begins, 'therefore the most'. This is the version here reprinted. Presumably it was published before the variant collected by Thomason on 29 January 1643/44 (Madan 1517) which was printed in London although it purports to come from Oxford. Less generously produced (26 pp.), it prudently omitted the ~~dis~~tribe against London; its p. 11 begins 'which we could'. The third variant (Madan 1518) has a title page and printer's ornaments identical to the second, but it has been reset with a number of printing changes; its final word is 'condition' instead of 'destruction'.

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The Case of our Affaires,  
IN  
LAW,  
RELIGION,

And other Circumstances briefly Examined, and Presented to the  
CONSCIENCE.

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*Auth. D<sup>no</sup> Joh:  
Spelman Hon  
filio.*

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Printed in the Yeare, 1643.



*The Case of our Affaires in Law, Religion, and other  
Circumstances briefly examined, &c.*



**T**hough the Bonds of all Dutie are originally and principally founded in God, and tied by Religion; yet seeing all civill Duties relate to the particularitie of the humane Ordinance, and according to the nature of it, is with more or lesse importance to be exacted. What Subject soever would finde the true rule and bond of his obedience, must in the first place look what the State is wherein he lives, and in whom the Sovereignitie is to which his obedience and faith is inevitably bound.

Our State of *England* (even by the declaration of our *Lawes*) <sup>25. H. 8. cap. 12.</sup> is a Kingdom, an Empire, a well regulated Monarchie; the Head <sup>24. H. 8. cap. 12.</sup> thereof a Supreme Head, a Sovereigne, a King whose Crown is an Imperiall Crown, the Kingdom *Hu* Kingdom, *Hu* Realme, *Hu* Dominion, the People *Hu* People, the Subject *Hu* Subject, <sup>26. H. 8. cap. 2.</sup> not onely as they are single men, but even when being in Par- <sup>1. Eliz. 1. 1. loc. 1.</sup> liament assembled; they make the Bodie Representative of the whole Kingdom considered apart without the King, so that the very Parliament it selfe is also by our *Lawes* called *Hu* Parliament: the King alone by Law hath power to call together in Parliament that Representative Bodie, and at His pleasure to dissolve it; He personally hath Homage and Oath of fidelitie of all the Peeres as of *Hu* Barons, and all the Commons in Parliament do by Law swear Allegiance to Him as to the *Onely* <sup>1. Eliz. 1. 1. loc. 1.</sup> Supreme Governour, and to assist and defend all Jurisdictions, Privi- <sup>1. Eliz. 1. 1. loc. 1.</sup> ledges, Prebeminences, and Authorities, belonging to Him, His Heires and Successors, or annexed to the Imperiall Crown of the Realme.

By the same Oath also is every Officer of considerable trust in Church and Common-wealth assured to His Majestie, and not onely they, but every single man of twelve yeares of age ought by Law in some or other of His Majesties Leetes to swear Allegiance to His Majestie: and never in our Law have we known an Oath of obedience to be made unto the Parliament, or any other Power in any case, either of mis-government or danger, how extraordinary soever.

This Sovereignitie in the King appeares not onely by that Oath of Supremacie, but by the constant acknowledgement of our Acts of Parliament both antient and moderne, which alwayes stile the King *Our Sovereigne Lord the King*, that is, not Sovereigne Lord to every single man onely (as the Observer traitterously and foolishly would make it) but the universalitie of us, even to our Bodie Representative in Parliament. For we must note that though we have among us many that are called Lords even by our Acts of Parliament themselves, yet being Lords without relation to the communitie or publique they are never called *Our Lords*, but *The Lords*, with addition of such or such place or Office; and they indeed are Lords *singulis*, not *universis*, for every particular man may call such a Lord *My Lord*, but the Communitie may not call him *Our Lord*, for to be Our Lord is to be Lord of the Communitie, and that belongeth onely to *Our Sovereigne Lord the King*.

Our very Acts of Parliameat declaring this State to be a right Imperiall Kingdom, a Kingdom (we know) consisteth of no more than two formall parts onely, that is to say, a Sovereigne Head, and a Subject Bodie, and then it clearly followeth that what cooperation soever there be of any of the Members with the Head for the doing of any necessary Act of State, whatsoever necessitie there be of the concurrence of those Members; and howsoever they may seem to be Parties, Orders, or States, co-equally authorized in the power of acting with the Head, yet plainly there neither is, nor can be any co-ordination, nor co-equalitie of any Estate, Order, or Degree, of the Subject  
with



with the Sovereigne, nor any competition of the Subjects power (in his concurrence) with the virtuall and primary influence of the Soveraignes power; but a plain subordination and subjected ministrat[i]on of the one under the Soveraigntie of the other, as in the further examination of their differing interests will manifestly appear.

We see the Soveraigntie of this State clearly vested in the King, by Law established in Him, and inseparably annexed to His Person, by which He hath also inseparably both the Sovereigne power and Sovereigne judgement: but as in judging and determining matters of private interest, His power is not absolute, but is restrained to judgement, (not judgement arbitrary in His own Person but judgement to be administered by the proper sworne Judges of His Courts of Law) so in matters of publique affaire, for so much as concerns the making of Law; His power and judgement are so restrained to the concurrence of the Nobles, and Commons in Parliament, as that He cannot make any settled Law without their consent: but then in all other things that are not expressly restrained by any Law, as in providing for the present safetie against suddain danger, which Senates are so unapt to do, as that the famous *Roman Senate* was ever faine to choole a *Dictator* to do it for them; likewise in levying of Armes, suppressing of tumults and rebellions, convoaking of Parliaments, and dissolving of them, making of Peeres, granting libertie of sending Burgesses to Parliament, treating with Forraigne States, making of War, League, and Peace, granting safe conduct and protection, indenizing, giving of Honour, rewarding, pardoning, coyning, and the like: in all these and divers other points of Regalitie, the Soveraigntie both of judgement and power ever hath been and still is in the King alone, freely and at his own discretion is secured to him by the Oath of Supremacie, whereby as aforesaid, the vvhole Representative of Commons, all Magistrates and men in place both in Church and Common-wealth sweare *To assist and defend all jurisdictions, priviledges, prebeminences, and authorities belonging*

*Lo. Chas  
Egertons  
Post nati  
73.6:*

*Psal. 60. 7.  
Gen. 49. 10.  
Deut. 33.  
4. & 5.*

*belonging to the King.* For it is plain, that seeing that by the Law of God and Nations, to be King is to be Supreme Judge and Law-giver; vvholesoever is King is supreme in every thing vvherein he is not especially restrained, and his restraint being by the peculiar Lawes of his Kingdome, he can be no further restrained than the knowvn Lawes thereof expressly manifest.

The great restraint of regall absoluteness in our State is in the two points of declaring and making of Law, in neither of vvvhich doth the King depart vvith any vvhit of his Sovereignie. In the point declaring of Law, the King is restrained ordinarily to the mediation of his Judges, vvho to declare the Law by deliverie of the genuine sense and interpretation of Law according to to art and rules of science, are in their respective Courts the proper and authorised Judges, and Interpreters of Law, and do by their interpretation and judgement then binde both the King and Subject.

*10. Chd.  
Egertons  
Possnati  
fil 22. &  
23. sec. 4.*

Next above them upon error supposed in their judgement, the House of Lords ( who anciently were exercised in the Lawes and learned in them, and are assisted with all or most of the Judges of the Benches) do upon Writs of Errour in Parliament revise, and by the advice of the Judges affirme or reverse the Sentence of the next inferiour Courts, where the judgement whither given for the King or for a common person, may be reversed, and as well the King as the common person bound by their reverfall and judgement, unlessc they be relieved by expresse Act of Parliament.

Other way of Declaring Law, in true proprietie of speech (that is, to declare the genuine sense and dictate of the Law as it naturally ariseth from the force of Lawes in being) there is none: for as for declaring Law by Act of Parliament, though that of all other be most authentique, yet it is not authentique for accurate judgement in interpretation supposed to be in the two Houses there, so much as for authoritie legislative administered by the three Orders of that high Court: for should the three Orders declare Law contrary to what were Law indeed, yet



yet could not their Declaration be erroneous, for that it thenceforth altered the Law and made their dictate Law though it were none before. Such Declaration of Law therefore being never possible to be made but by the full legislative power of all the three Orders, is not so properly a Declaring or interpreting of Law, as rather the making of it, and is therefore to be referred to the point of restraint in making of Law. And this is clear that in such declaring of Law the Kings power is so much lesse restrained than it is by declaring of Law by their inferiour Courts as that in this he himselfe hath ever a personall Vote in the Declaration, but in other he hath none at all.

As to the restraint of regall absoluxenesse in point of making Law. When our wise and pious Christian Princes had once brought the Kingdom to an happy frame of just and regular Government, and sought by all meanes the establishment of that good condition, which promised both prosperitie to their people, and stabilitie to their own Dominion. (Change and Innovation being thenceforth more to be feared than any other thing) They for preservation of what they had done, began to yeild the absoluxenesse of their power, without which they could never have brought the State into any perfect frame, out of some retardation of motion, and regulation of power; and came by degrees not onely to use the advice of the Bishops and Barons in making of their Lawes, but their consents also; and then not onely their advice and consents, but the advice and consents of the Commons also; condescending at last that as to the power of making Law, their Scepter should thenceforth be locked up under the cautelous ward of a triple hand; so as no new Act whatsoever should obtain the Authoritie of a positive Law without the agreement of the King, the Peeres, and the Commons; to the end that no unadvised Law, not well examined and found agreeing with the interests of every of the three formall parts of this Kingdom, might in any part maine or enfeeble the established frame; which yet did not so much coop up or curbe the regall power from any due worke or office

office that belongeth to it, as rather close and fence it in, within the bounds of safetie and of preservation.

Now this restraint being at first collaterall and accidentall to the Sovereigne power, did not in the beginning otherwise binde our Princes than by their voluntary and pious submission of their wils, till constant custome becomming a Law made that usage which was at first at their will, become an absolute and inevitable limitation of their power, so as that at this day no positive Law can now be made by the King, without the consent of the Peeres and of the Commons: and yet for all this necessitie now of their concurrence and consent, nor any part of the Sovereignitie (to which the legislative power is inseparably incident) is in any sort transferred, or communicate unto them: but as in our Copy hold Estates, the Copy holder of a meer Tenant at Will, comes by custome to gain a customary inheritance, and so to limit and restrain the will and power of the Lord, as that he cannot make any determination of the Copyholders estate otherwise than according to the custome of the Mannour: yet does not he deprive the Lord of his Lordship in the Copy hold, nor participate with him in it, neither yet devest the Fee and Frank-tenement out of the lord, but they still remain in him and are ever parcell of the Lords Demeasne. So in this restraining of the Kings legislative power to the concurrence of the Peeres and Commons: though the custome of the Kingdom hath so fixed and settled the restraint, as that now the King cannot in that point use his sovereign power without the concurrence of the Peeres and Commons according to the custome of the Kingdom, yet still the Sovereignitie (and with it the inseparable legislative power) does soly reside in the King. As for the Peeres and Commons they being meerly Instruments of Regulation and qualification of the Kings legislative absolutenesse, are no sharers with him in the Sovereignitie, but alwayes remain (as our very legislative Acts of Parliament do alwayes speak them) *His Majesties Subjects*. And His Majestie for all this restraining power of theirs remaines (as they themselves

themselves in the legislative Acts, and not without an Oath, acknowledge Him their *true and onely Sovereigne*.

Apparantly therefore the Sovereignitie or regall power being thus in matters of private interest restrained to the rule, jurisdiction, and administration of Law, as well by inferiour Courts as by the House of Lords; and in the publique affaire of making Law, restrained to the concurrence of the Peers and Commons, is not so properly said to be restrained, as regulated. For neither is any of the Kings just and necessary power to the prejudice of the Crown taken from Him (for the Law in no sort suffers any diminution of the just and due Sovereignitie) neither is there any partnership of the Supremacie thereby thrust upon the King, when the Law, notwithstanding the restraint expressly declares Him *The onely Supreme Governour*. Neither yet is any of the irregular and exorbitant absolutenesse, which the Law separates from the regalitie, any way transferred to the Courts or persons that are the instrumentals of the regulation, but the Law separating all irregular licentiousnesse from the Regalitie, utterly annihilates and makes null all practice and exercise thereof. In summe, all that is effected by this regulation is, the King as He ever was, so still remaines, wholly and soly Sovereigne of the Kingdom onely, not of a licentious and illegall, but of a regular and legitimate Dominion.

But when the power and authoritie of Parliament is acknowledged to be the highest, most absolute, and most Sovereigne power in the Kingdom, and seemes repugnant to that which we have alleadged, that the Sovereignitie is wholly and soly in the King; We shall easily reconcile that apparition of contradiction, if we consider that we use the word *Parliament* to divers senses, and that in two senses wherein we use the word *Parliament* there is no Sovereignitie to be ascribed to it.

We sometimes use the word *Parliament* for the House of Lords onely. As when upon Writs of Errour any Judgement in the Kings Bench is examined in the House of Lords, and there affirmed or reversed, the Judgement is said to be affirmed

or reversed by Parliament. And yet though in that sense, the House of Lords is well enough called The Parliament, yet is it not the high Court of Parliament, which is the supreme Judgement, power, and Authoritie of the Kingdome, and that we may easily see in this, that though the Lords have power there to reverse the Judgements of their inferiour Courts, yet have they not power to reverse their own Judgements, nor to restore again any Judgement that they have reversed, for they judging ministerially, and not sovereignly, do as well binde their own hands as the hands of their inferiours, whereas the absolute soveraigne power doth not so, but may reverse any judgement that they themselves have given, and again restore the judgement that they themselves reversed, for the absolute supreme Court having *Juris dandi dictionem*, can never be at the last period of her jurisdiction, but looking ever forward to the present occasion, whatsoever passed before, it *prorenat* legislatively judgeth, makech, and declareth Law. But the House of Lords (though the most superiour of all Courts of ministeriall iurisdiction) and all other inferiour Courts, (they having no other iurisdiction than onely *juris dati dictionem*,) in using their iurisdiction do consummate it, and bring it to a period, beyond which they cannot go. Besides the House of Lords is not universally to all occasions a iudicatorie, and therefore not soveraigne, but is the distinct Court of the Kings Barons of Parliament of particular and ministeriall iurisdiction, in which the King (though one of the three Voters in Parliament) yet in those things which come by proesse of Law to receive determination there onely, hath no Vote at all, no more than in all other Courts of ministeriall iurisdiction.

Sometime we use the word Parliament for the two Houses of Parliament onely, and that in regard they are the grosse of the Bodie, whereof the Parliament consists, there wanting onely the Soveraigne Head to compleat it. But the two Houses alone without the King are so farre from being the supreme and high Court of Parliament. as that they are not at all a compleat Court,



Court, neither can they so unite or conioyne as to be an entire Court of either soveraigne or ministeriall iurisdiction. But are two distinct Courts (if so be the House of Commons which cannot minister an Oath, nor fine, nor imprison any but their own Members) may be called a Court, then are they Courts, not otherwise co-operating, than by concurrence of Votes in their severall Houses, for preparing matters in order to an Act of all the three Orders of the Parliament, which when they have done their Votes, are so farre from having any Legall Authoritie in the State, as that in Law there is no stile, nor forme of their joynt Acts, nor doth the Law so much as take notice of them, untill they have the royall assent, which if the King refuses, he yet doth no injurie to any, for that every of the three Orders that are the formall parts of the high Court of Parliament, (that is, the King, the Peeres, and Commons) are every of them by Law trusted for their own respective interests to be the onely assured Conservatours of the rights that do belong unto them, and may therefore every one of them freely dissent from the Votes of the other two, nor is their any danger that it should be so, but contrarily the most assured safetie that may be, for the consequence of their not agreeing can be no worse, than that their severall interests shall still remain in the condition that they were before, untill such time as that they shall all three agree upon the state of alteration. Now when the two Houses alone do no way make an entire Bodie, House, or Court, and when their is no known stile, nor forme of any Law, or Edict by the Votes of them two onely, nor any notice of them taken by the Law, it is apparant there is no Soveraigntie in their two Votes alone.

To argue now as some do, that the King must not deny His Vote, for if by denying it He may frustrate the Votes of the two Houses, by the same reason may He frustrate the Votes of all inferiour Courts, and open a way to the most boundlesse tyrannie that ever was, is a most perverse and absurde falsitie, there being no affinitie nor resemblance of the course of those

Courts with that of Parliament. For in inferiour Courts the Judges sit and give Judgement for the King, and not for themselves; and the Law there authorises them to give the Kings Judgement, and none but them, and therefore the Kings Dissent or Countermand cannot frustrate their Judgements. But in Parliament the Peeres and Commons neither sit nor Vote for the King, but for themselves. And the Law appoints the King himselfe to give His own Vote there (which if the Peeres and Commons in His absence could have supplied, the Statute 33. H. 8. 21. needed not have provided that His Consent or Vote by His Letters under His Great Seale should be as effectual, as if He himselfe in Person had assented.) Besides the Judgement given by the Judges in inferiour Courts, is compleat in Law without the assent of the King, and therefore cannot be frustrate by the Kings dissent; but the Votes of the two Houses are therefore to be frustrated for want of the Kings assent, because without it they are not compleat nor perfect. The high Court of Parliament therefore resembling a Chaire of three feet, the two Houses make but two of the three, which without the third is lame and uselesse (as to making of Law) but with the third becomes a firme and usefull seate, and makes that sacred *Tripes* from whence the Civil Oracles of our Law are delivered. When therefore we speake of the Sovereigne power and Authoritie of the Parliament, that never is to be understood of the power of the two Houses onely, nor any such Sovereigne power to be ascribed unto them.

Now in the last place, we use the word Parliament for the three Orders of Parliament agreeing in their Votes; then, and then onely use we the word Parliament properly, and in that sense onely is the Parliament the supreme Court, the highest judicatorie, and most soveraigne power, and authoritie in the Kingdom. But we must ever understand, that it is not the most Sovereigne Court, for any Sovereignitie placed in the two Houses, and from them transferred or communicated to His Majestie, by their joyning or consenting with him; but it is there-

therefore the most sovereign Court, because every compleat and perfect Act of it is the Act of the personall will, and power of the Sovereigne himsele, *Standing in His biggest Estate Royall*, and ( through the concurrence of those that are the instrumentals of His restraint ) more freely and absolutely working there, than in any other time and place he can do. For as a man that yeildeth himsele to be bound by keepers, hath the use of his strength taken from him, but none of the naturall strength it selfe, much lesse any of it transferred to them that bound him, but whensoever they loole his bonds, he again workes and acts by virtue of his own naturall strength, and nor by any received from them: So the naturall right and interest of the Sovereignitie being soly in the King, and the Peeres and Commons being onely interess'd in the Office of restraining, for the regular working of true legitimate Sovereignitie, in whatsoever the Peeres and Commons by consenting remit the restraint, the King in that willeth and worketh absolutely by the power of his own inherent Sovereignitie. And whatsoever Act of the Court so passeth the hands of all the three Orders, does in truth virtually proceed from the King, as from the true and proper efficient thereof: which does not obscurely nor rarely appear in our Acts of Parliament, but plainly and frequently throughout the whole Bodie of our ancient Lawes, *The King Willeth, the King Commandeth, the King Ordaineth, Provideth, Establisheth, Granteth, &c.* And yet though properly they be the Acts of the King in Parliament; yet are they also truly the Acts of the whole high Court of Parliament, because that every of the three Estates contribute their power according to the diversitie of their office and interest, the two Houses by remitting through the consenting the restraint, and the King by using his then unrestrained power.

We are also to consider, that though this high Court of the three Orders be the supreme Judicatorie of the Kingdome, yet it hath not that superioritie of judgement ascribed to it, for any sovereign facultie it hath in discerning the true dictate and re-

*Crump.*  
*1st. 10 b.*  
The speech  
of H. 8. in  
Parl. by in-  
formation  
of the  
Judges.

*Stat. West.*  
*1. 3. E. 1.*  
*1. 3. E. 1. 3.*  
*6. 6.*  
*42 Stat.*  
of Merch.  
*13. E. 1.*  
*Westm. 3.*  
*18. E. 1. 1.*  
*Stat. of*  
*Wille 30.*  
*E. 1. of*  
*Appeale,*  
*18. E. 1.*  
*1. E. 2. 1.*  
and all the  
Titles of  
the Acts  
of our Pre-  
decessors.

*Valensius  
in sua arte  
credendum,  
11. H. 7. 9.  
34. H. 6. 14.*

sult of Law, no more than of any other particular Science (as of Divinitie, Philosophie, Physicke, Mathematiques, &c.) for the judgement of Sciences belongeth to the professors thereof, and the judgement of Law as well as of other Sciences. But the high Court of Parliament is the supreme judge, for the great trust the Law repositeth in the concurrence of all the three Orders, ( who have meanes to have the best information of Law that the whole profession doth afford, and are supposed to use it) and likewise for the great power they have to binde all other judgement, and to make their sentence Law, though (as we have said) it were not Law before.

But we are further to observe that in the point of making of Law, the Law restraining thus the Sovereigne power to the consent of the Peeres and Commons, the more that by this regulation it purged it from destructive exorbitances, the more tender it grew of the just and legitimate rights thereof remaining, and therefore considering the person of the Sovereigne to be single, and his power counterpoised by the opposed wisdom of the two numerous Bodies of the two Houses, it allowed unto the King power to sweare unto himselfe a Bodie of Councell of State ( which our Lawes sometime call *His Grand Councell*) and to sweare unto him also Counsellours at Law, even the Judges themselves, and others learned in the Law, faithfully to advise him in his Government, that he may neither do nor receive wrong, especially not in Parliament, where the wrong may be perpetuall. And if upon a generall pretence of evill counsell, without any instance in what, his Majestie be deprived of the use and assistance of and assistance of any of his sworne Councell ( especially in Parliament time, when the Sovereignitie may be so easily overmatched) it will make such a breach of the priviledge of the first of the three Orders in Parliament, as will destroy the true frame of Parliaments, diminish

25. E. 3. 4.

37. E. 3. 13

42. E. 3. 3.

17. R. 2.

*Under the*

Oath of the Justices,

an. 18

E. 3. Yee

shall sweare

&c. that

lawfully ye

shall coun-

sell the

King in

his busi-

ness, and

ye shall not

counsell nor assent to any thing which may hurt him in damage, &c. and ye shall do and procure the profit of the King, and of his Crown, with all things, where ye may reasonably do the same, and if ye be found in default, &c. ye shall be at the Kings will, of bodie, goods, and lands, there- of to do as shall please him. So helpe, &c. *Under the Statute de Bigam.*

of rode as shall please him. So helpe, &c. *Under the Statute de Bigam.*

of rode as shall please him. So helpe, &c. *Under the Statute de Bigam.*

of rode as shall please him. So helpe, &c. *Under the Statute de Bigam.*

of rode as shall please him. So helpe, &c. *Under the Statute de Bigam.*



with the power of the Crown, and bring the settled estate of the Kingdome into the calamitous innovation of an unsettled and ever changing Forme of Government, and so into all manner of miserie and confusion.

The Sovereignitie in the King alone, is so clearly acknowledged by our Law, as that (unlesse we would reject the iudgement and recognition of all our Parliament, and especially of all our most sincere and unquestioned Parliaments all the time of Queen *Elizabeth*, and ever since, all which do not onely affirme but sweare it) it would be idle to go about to make praise of it. But when the incredible perverseness of some, and in particular of him that writes, *The treacherie and disloyaltie of Papists, &c.* does not onely affirme the contrary, but would pretend to prove it. It cannot be a digression in a word or two to give some answer to his reasonings.

I shall passe over *Minshaw's* Dictionary, *Speed*, *Stowe*, *Vowel*, *Foxe*, and others, whose authoritie he is not ashamed to cite for determining matter in Law, and which (if indeed it were a question) were of the greatest consequence that ever was stirred in Law. And because he so much insists upon *Bracton*, I shall briefly examine *Bracton*, and the Authours integritie in citing him and others.

And first, that all men may know how little authoritie in Law *Bracton* either now hath, or anciently hath had. Our yeare-bookes tell us that in the 35. H. 6. It was declared by the whole Court, that *Bracton was never held an Authour in our Law*, and then it is not materiall what is the opinion of one that is of no authoritie. But if he were; yet thole words in *Bracton* so much insisted on, *Rex habet superiorem Deum, Legem, stem Curiam suam, &c.* are not indeed *Bractons* assertion. For *Bracton* speaking of the Kings Deeds and Charters, and affirming (which we would be loath should be Law at this day) that *Neither the Justices nor private men may dispute the Kings Deed*, but that if there be doubt of his Deed, or Charter, the resolution must come from the Kings own interpretation and will, &c. Then goes he

35. H. 6.  
Fitz. Abr.  
iii. gard.  
72. pag. 3  
Bract. li. 1  
c. 16. par. 3  
fol. 34.

he on thus; *But some may say* (saith he) *that the King may do justice, and well: and if so, he may by the same reason do ill, and so put a necessitie upon him, that he mend the injurie, least both King and Iustices fall into the judgement of the living God for the injurie. The King hath a Superiour, to wit, God: also the Law, by which he is made King: also His Court, to wit, the Earles and Barons, &c.* Now whosoever considers the place, it is all a reasoning which *Bracton* supposes some other to make, and no affirmation of his own, and that is also plain by his words in another place, where speaking of the King, *If Iustice* (saith he) *be demanded of him, seeing no Writ lies against him, one must petition, that he would correct and amend what he had done. Which if he do not, it is sufficient for his punishment, that he must expect God to be the Avenger of it.* Not a word of the Courts avenging or rectifying of the injurie, or of their enforcing the King to do it himselfe. Again, speaking of Earles, though with little iudgement he would seem to derive their Office from the Etymologie of the Latine name *Comes* (which was but a late borrowed translation brought in use by the Conquerour) and would so make them a kinde of Companions with the King; yet does he not make them Companions thrust upon the King by Law, but *the Kings* (saith he) *do associate such to themselves for advice and government. Every one truly is under him, and he under none but God, and he hath no Peer in his Kingdom, for then he should loose the Command, when as one Peer hath no command over another, much lesse hath any one command over his superiour, for so he should be inferiour to his own Subjects: and the King ought not to be under man, but under God, and the Law: now these words of Bracton tell us that the other are neither his assertion nor approbation.*

And whereas by those words of *Bracton*, that *The King ought to be under the Law*, he would inferre a direct Soveraigntie over the King, he very much corrupts the meaning of *Bracton*, for it is one thing to be subiect to Law, and to the administration of Law, and another thing to be a Subiect to those that have the administration of Law as to his Soveraignes. Our Saviour

Christ

B. 48. li. 1.  
c. 8 p. 5.

*Christ* was subject to the Law, and to the administration of the Law in the hands of them that were the Ministers of it : yet was not *Christ* the Subject of those Ministers, nor they his Sovereignes, but contrary he theirs, he being *Borne King of the Jewes*. And *Bracton's* reason that the King must be under the Law is, *because he is Christ's Vicar on earth*. And *Christ* himselfe was under the Law ; so as plainly *Bracton* meanes not the King, otherwise under the Law, then as our Saviour *Christ* was, who did subject himselfe to the just execution of the positive Lawes of the Kingdom, of which he himselfe was the Head and Fountain, not that he should be subject to the administration of any arbitrary Law, residing in the people, who should in the last resort be Sovereignes over their own King : for that was not suitable to one that should be *Vicar of Christ*, but to a *Vicar of the people*. Neither is the King more subject to any judgement that can be given in Parliament, than He is to judgements given in inferiour Courts, to which if you will say the Parliament is superiour to those Courts, and the superioritie that is but subordinately in them is sovereignly in the Parliament ; truly the superioritie (if it may so be call'd) that is subordinately in the inferiour Courts, is but more superiourly in the House of Lords than them, but it is not sovereignly neither in the Lords House, nor any other part of Parliament, till we come to the judgement of all the three Estates, (where the Kings will is the efficient formall of the Law) and there you may see that the Vicar of *Christ* the King, like *Christ* His Lord, whom He representeth ; in being subject to the Law, of which He is Sovereigne, becomes at last subject to none but Himselfe : for that high Court of Parliament speaketh not without Him.

But ere we give over his citation of *Bracton*, we must not forget his unfaithfull application of it. For as for those words, *The King hath a superior* (that is to say) *God, also the Law, also His Court, to wit, the Earles and Barons*. He would not onely have them *Bracton's* words, and have them understood to carry Sovereignitie over the King, but would have that Sovereignitie

placed in the two Houses, when as *Bracton* expressly expounds that the Court which he meanes is the *Barons and Bishops*, that is to say, the House of Lords onely, and not the Commons too, plainly shewing that he meanes no other Superioritie than such as is incident to the regular course of Justice in the way of legall suit and processe, which in that course never goes further than the House of Lords: there is no forme of prosecution in that kinde in the two Houses, and therefore neither Sovereignitie nor Superioritie in that kinde can be ascribed to them.

Page 38.

Neither may we passe over his falshood and shuffling to exrenuate the Oath of Supremacie, that securitie may make men swallow their perjurie and never know it: for though it be true, that the Oath was principally intended against Papacie, (because the Papacie was the first that ever pretended Sovereignitie over Kings) and the clause of renouncing runnes against Forraigne powers onely, as those that then were onely feared to be pretenders under the Papacie; yet the recognition it selfe, that *The King is the onely Supreme Governour*. And the Oath it selfe, to *bear faith and true Allegiance to the King, His Heires, and Successours, and to assist and defend all jurisdictions, privileges, prebeminences, and authoritie belonging to them, &c.* are clearly generall, absolute, and unrestrained to any particularitie of Papacie, Forraigners, or any thing else whatsoever.

But to come to that that is the maine Authoritie, scope, and drift of his book, and which he would by all meanes inculcate though but under the shew of telling what popish Parliaments have done, lest otherwise his horrible intention might appear, he brings us precedents that the two Houses of Parliament have upon all occasion sovereignly disposed of the Crown, and of all the rights that do beloug unto it, and that even our Kings themselves have submitted their sovereign rights to the determination of the two Houses. Good God! How *Evill men and Seducers wax worse and worse, deceiving, and being deceived*. He that writ the Observations upon His Majesties Answers and Expresses had so much ingenuitie left him as to acknowledge, that

2 Tim.  
3.13.



that *There was never King deposed by any Parliament lawfully assembled*; and that the Acts of the Parliament, *R. 2.* were not so properly the Acts of the two Houses as of *H. 4.* and His victorious Armie. But this man being not ashamed to lick up what his fellow vomited out, presents the world with a cull of all the irregular times of our unfortunate Princes, in which (by the consent of all men) the Acts of neither side are to be drawn in to example, and bring us for judiciall Authorities, the horrid *Ed. 1.* facts of irregular power, in the Times of King *John*, *R. 1.* *H. 4.* *pag. 8. 10* *H. 6.* &c. And is so supine in his purpose, that with the factious Parliaments in the Times of *H. 3.* *E. 2.* and *R. 2.* (which he cites to have exercised authoritie over Kings) he stickes not to couple the Rebellions in the North, against *H. 4.* and the rebellious Insurrections of *Jacke Cade*, *Jacke Straw*, *Wat Tyler*, *Do-* *pag. 15.* *our Mackerell*, *Ket*, and others, as Acts that made equall proofe of the soveraigne power of the Peeres and Commons: indeed in both there were much what the same pretences, and both had much what the same warrant.

But all those Parliaments as they were called in the troublesome Times of Faction, and Civill War, so were they ever swayed by those that were the Heads of the most potent Faction, and while they alwayes acted in favour of them and their Designe, they are so farre from being instances of the power, and authoritie of the two Houses, as that cleane contrary, they are plain instances of the weaknesse and unsteadinesse of them, when forsaking the moderation and guidance of their naturall Head, they suffered themselves to be lead by the private conduct of every popular pretender; and so even among the precedents which he citeth, we see that when *Canutus* prevailed *pag. 33.* *34, 35, 35.* by his Armes, he could have a Parliament resolve that his Title was the best. When *Hen. 4.* had an Armie of 60000. he could have a Parliament depose *R. 2.* and conferre the Crown upon himselfe. When *Edw.* Duke of *Yorke* grew potent, he could have a Parliament be the instrument of determining the Raigne of *H. 6.* and leave him onely the name of King for his life,

but give the Duke the very Kingdom, under the names of *Pro-*  
*rectour* and *Regent*, *Edw. 4.* could by *Parliament* procure *H. 4.*  
*H. 5. & H. 6.* to be declared Kings in fact, but not in right: *H. 3.*  
 though an *Uurper*, could procure a *Parliament* to declare him  
 a lawfull King. *Henry 7.* could procure the forementioned *Acts*  
 in favour of *Edw. 4. & R. 3.* to be adnulled. *Hen. 8.* could have  
 a *Parliament* authorize his *Divorces*. And Queen *Elizab.* could  
 by *Parliament* make it High *Treason* to say, that the Queen  
 could not by *Act* of *Parliament* binde and dispose the rights and  
 Titles which any person whatsoever might have to the *Crown*;  
 when yet we know that no *Act* of *Parliament*, no not an *Attain-*  
 der by *Parliament*, can disable the right Heire to the *Crown*, be-  
 cause the descent of the *Crown* upon Him purges all disabili-  
 ties whatsoever, and makes Him capable of it

This is the summe and true estimate of all the *Authorities*  
 which he cites, in which if the *Acts* could be granted to be the  
 meer *Acts* of the two Houses; yet did they no more prove the  
 soveraigne power to be in the two Houses, than the *Popes* de-  
 posing of Kings proves the right of depositing them to be in  
 him, that the things were done, is no prooffe that they were  
 lawfully done: and yet as idle and vile a collection of exam-  
 ples (not to be imitated) as he hath made, he is faine to belie-  
 them to makem seem to serve his turne; for truly though he  
 affirms that the popish *Parliaments*, &c. challenged, or claimed,  
 greater jurisdiction over Kings, than any ever since, yet his in-  
 stances prove no more claime of *Soveraigntie* than a robber  
 claimes when he exercises an arbitrary power over a mans per-  
 son and fortunes: what they did they did *de facto*, upon some  
 inferiour reasons, not upon claime of the *Soveraigntie*; they  
 — neither taught, nor ever learn'd that *Jesuitique depth of Sasban*,  
 that the *Soveraigntie* over the *Soveraigne* is placed in the *Bo-*  
*die Representative* of the *Subject*. All claime therefore of ei-  
 — ther the *Soveraigntie* it selfe, or of the rights thereof by any  
*Representative* of the *Subject*, is a transcendent impietic be-  
 yond the parallell of all his unimitable examples, in which I  
 cannot

Parliament  
 & not just  
 won over  
 by  
 Adjudged  
 4.7.

Reg. 4.

cannot but the more wonder that he should ascribe the Acts unto the two Houses, when by making the Acts theirs, he makes all the long miserie and bloodshed that ensued upon those Acts to have been brought upon the Land by the meer Act of the two Houses. Considering therefore the every way faulty Argument of that Book, both in citing and applying, I am forced to conclude with the same words that in the frontispice of his Book he begins with *The treacherous dealers have dealt treacherously; yea, the treacherous dealers have dealt exceeding treacherously.*

As for the second part of the same Author that came since forth under a title that pretends to shew the *lawfulness of a defensive war*; that answers it selfe, that it comes nothing to the case in question, where the War is acknowledged to be an Invasive War to take from His Majestie certain Counsellours, pretended to be evil Counsellours. If possibly therefore he should prove what he undertakes to maintain that Subjects may make a Defensive War against their Sovereigne, yet being nothing to our case deserves at all no answer here, I therefore returne again unto my purpose.

That the Sovereignitie (with all the rights claimed by His Majestie) is in the King inseparably inherent in the person of His Majestie; we have not onely the forementioned testimonies and reasons, but we have the witnessse of the two Houses themselves, for whom our deceiving Pamphlets do now make all the new arguments of pretence. For first, we have (as I have said) the whole current and bodie of our very Acts of Parliament acknowledging it in these very termes, *Our Sovereigne Lord the King*. We have the Parliament 25. H. 8. declaring thus, *This Your Graces Realme recognizing no Superiour under God but Your Grace*. The Parliament 16. E. 2. 5. affirming *The Crown of England hath been so free at all times, that it hath been in no earthly subjection, but immediately to God, in all things touching the regalitie of the said Crown, and to none other*. In the 25. H. 5. both Houses declare *That it belongeth to the Kings regalitie to grant or denie what petitions in Parliament he pleaseth*. In the 15. E. 3. The King being unwillingly drawn to consent to certain Articles prejudiciall

Co. 5. de  
jare & Esc.  
f. 49. b.

25. H. 8.

211

16. E. 2. 5.

25. H. 5.

15. E. 3.

v. j. m.

to the Crown, and to promise to seale the Statute thereupon made, least otherwise his affaires in hand might have been ruinated. Another Statute the same year reciting the matter enacted in these words, *It seemed to the said Earles, Barons, and otherwise men, that since the Statute did not of Our free will proceed, the same be void, and ought not to have the name nor strength of a Statute, and therefore by their counsaile and assent We have decreed the said Statute to be void, &c.* In the Statute of Banishment of *H. Spencer*, the first Article against him, is for making a Bill, wherein he affirmed *Homage and allegiance to the King is more by reason of their own, than of the person of the King.* The word hath a note of a Parliament roll *Diarie of H. 4.* The Commons in Parliament pray the King that *They may not be made parties to any judgement in Parliament, but where in reueritate they are parties, for that the judgement belongs onely to the King, except where it is given by Statute.* As for the *Militia*, the Shippes and Forts of the Kingdom. The King and His Predecessours have not onely been ever in possession of them, commanded and disposed of them even during the sitting of Parliaments, but have enjoyed that possession without any claime of right made by the two Houses, and our Law hath not a surer badge of right than continuall and unquestioned possession. Besides, the Parliament it selfe, *7.E.1.* declares unto the King, that *To him of right belongs straightly to defend* (that is, to forbid) *all force of Armes, and thereunto they are bound to assist him as their Sovereigne Lord.* The Statute *11.H.7 18.* reciteth, *Where every Subject by the dutie of his Allegaunce is bound to serve assist his Prince and Sovereigne Lord at all seasons when need shall require, &c.* In the *3. of Edw.3.* The House of Commons disclaime the having cognizance of such matters, as the guarding of the Seas and Marches of the Kingdom. And by the Statute *25.E.3.2.* It is made High Treason for any to meddle with the *Militia*, so farre as *To levie Warre against the King, or to aide them that do it.* And we all know that to levie Warre without Commission from the King, or to give aide unto it, is by our Law to levie War, and give aide against our

15.E.3. 1-  
A. 2. of the  
vocation

Vide Ols  
Mag. Cōd.  
Diary, H. 4.

7.E.1.

3.E.3.

De guerre  
ils n'ont pas  
cognizance

25 E.3 2.



*Sovereigne Lord the King, His Crown and Dignitie*. And we never knew of any exception out of that Law in case the Werre were levied by Authoritie of the two Houses? And when we have not in our power to search the Parliament rols for clearing these things. If (besides our published Statutes) our Law-bookes have any authoritie, we have not onely *Bracton* (whom they insist upon) but other authentique Law-bookes concurring with him who all (speaking of the King and the Houses do expressly say, that seeing *The King hath no Peere, The King cannot be judged by them*. So that whatsoever authoritie is in the constant practice of the Kingdom, and whatsoever authoritie in the known and published Lawes and Statutes, all do conclude the Sovereignitie in the person of the King, and the allegiance, faith, obedience of the Subject even of the Subject virtually united in the Bodie Representative, to be inevitably devinct and obliged to the person of the King.

3. E. 3.  
*Fitg. 111.*  
*Cor. Bann.*  
*pl Cor.*  
 153.  
*Bract. li 7.*  
*cap 22 fol.*  
 52. 4 *Rem*  
*patet non*  
*habet, nec*  
*vicinum*  
*nec superio-*  
*rem*

The Sovereignitie both of the frame of the State and positive Lawes of the Kingdome being fixed in the person of the King, and the Allegiance of the Subject by Law inevitably thither assigned, then comes in Religion, and fortifies, and enforces all those bonds of dutie and obedience, and that under the severe menace of damnation, which when it is in divers precepts and examples ( well known unto us ) abundantly set forth in the Scriptures. It will not be safe for us to let slip the consideration of two examples especially.

The Children of *Israel* being redeemed out of *Egypt*, baptized in the Red Sea, and brought for triall into the wilderness as they were the type of the Church of God in all Kingdomes whatsoever in this world: so *Moses* their Governour was the type of that regall power under which the Church of God in this world was generally to be governed: so as though he were not a King in point of interest, ( for the people were not yet in the Countrey that was to be the Kingdom, neither was *Moses* of the Tribe to whom the Kingdom was promised ) yet (saith the Text) *He was King when the heads of the people were assembled.* *Deut.*  
*Moses 33.5.*

*Moses* so personating the kingly Office, when as yet there was no expresse command concerning obedience and subjection, more than *Honour thy father and thy mother, and he that curseth father or mother let him die the death.* It happened that *Corah, Dathan, and Abiram* rebelled against him, and their rebellion was but this : they in the behalfe of the Congregation of the Lord, because that it was *holy every one of them, and the Lord among them,* question *Moses* his Sovereignitie, charge him and *Aaron* that they exalted themselves above the Congregation of the Lord, and that *Moses* had not kept touch with them to bring them to a Land that flowed with milke and honey, but sought to starve them in the wildernesse, while blinding the eyes of the people he might in the mean time make himselfe a Prince over them, and out of jealousie of this they refused obedience to *Moses*, and would not come at him when he sent to call them, and so much was their cause believed to be just and right : as that they were seconded with *two hundred and fifty Princes of the Assemblée famous in the Congregation :* all of them so confident, that they durst joyn issue with *Moses*, and put themselves upon triall by Gods immediate judgement in the case, and they were also backed with many thousands of the people. This was the Rebellion: the Judgement we all know to be most exemplar Judgement that ever was given in any case. The Heads of the Rebellion *Corah, Dathan, and Abiram,* with their wives, their children, and all their substance, were swallowed up of the earth, they went down quick into Hell (saith the Psalmist.) The two hundred and fifty that invaded the holy Office were slain with fire from Heaven, and fourteen thousand and seven hundred of the people (that favoured their attempts and murmured at the Judgement) were in an instant (in lesse than *Aaron* could get his Censer with fire from the Altar and run among them) consumed in a speedy plague.

It will be objected that *Moses* was a man of extraordinary calling, and that Rebellion against an ordinary Governour (though a soveraigne King) is not like Rebellion against a Governour

Numb.  
16. 3.

Ex. 17.

Ex. 17.

Psal. 106.  
17.

vernour of so extraordinary calling and priviledge; all that  
gianted, yet this exemplar Judgement comes home to manifest  
the hainous sin of rebelling against Kings at this day.

Moses had an extraordinary calling, he could not else have been  
a type of regal Authoritie, but in type *He was King when the heads* Deut. 33. 5  
*of the people were assembled.* He had the Priest made subordinate  
to him, *He shall be unto thee instead of a mouth, and thou shalt be unto* Exo. 4. 16  
*him instead of God.* And had the Magistracie, derived from his  
Authoritie, to beare the burthen with him, *God took off the spirit* Numb.  
*that was upon him, and put it upon the severitie two Elders.* 11. 35  
So Moses  
was clearly endued with regall power; and for transgression a-  
gainst that very Authoritie of his was the Judgement made so  
exemplar. It could not be exemplar in regard of any other Au-  
thoritie which he had then, and no other since either had or  
could have: but that we may know the Judgement was exemplar  
against Rebellion, against regall Dominion, which would often  
be committed in the later dayes, the holy Ghost speaking against  
the seducers & deceivers wch in the later dayes should make *perilous*  
*times*, describes them not onely by being *Cursed speakers, disobe-* 2 Tim. 3:  
*di-ent to parents;* (that is, as well to Civil parents as Natural) *traste-* 2. & 4  
*rous, headie, high-minded, resisting the truth:* like them that resisted 2 Pet. 2. 10  
Moses; *Despising Dominion, despising Government, speaking evill of* Jude 8.  
*Dignities, of those that are in Authoritie, of those things which they* 10. & 11.  
*know not, &c.* but by this likewise that *They perish in the gainsaying*  
*of Cora.* The other example is that of David. Saul was a wick-  
ed apostate King, from whom *The Spirit of God* (the inward an-  
ointing) *was departed.* *Saul reiected from reigning over Israel.* So by  
God himselfe declared. *David* in his stead by God provided to be  
King: and to that end by Gods command anointed; by all  
which *David's* priviledge then was more above the priviledge  
of all Subjects now, than *Saul's* priviledge of that time was  
above the priviledge of Kings at this day, and yet *David* for  
all those circumstances so much authorising him, and dis-author-  
ising *Saul*, did not know *Who could lay his hands upon the Lords* 1 Sam.  
*Anointed and be guiltlesse.* 16. 14  
v. 1.  
16. 9.

Afterward  
David was  
touched in  
heart be-  
cause he  
had cut off  
the lap of  
Sauls gar-  
ment.  
1 Sam.  
24.6.

*Saul's garment to cut off the lap for a testimonie of his loyalty, and innocent intention toward Saul, and yet even for that (saith the Text) his heart smote him; that he cried out, The Lord forbid I should do that thing to my Master, to lay mine hand upon the Lords Anointed: his reason we may know in the other words of his, The Lord shall smite him, or his day shall come to die, or he shall descend into battaile, and perish: the Lord keep me from laying mine hand upon him: plainly inferring, that to call Princes to account belongs onely to God: that God hath time and wayes of his own to do it in, and will do it: and that therefore man must not meddle with the doing of it: for if anointed David might not intermeddle with rejected Saul, much lesse may common Subjects meddle with their unrejected Sovereignes. Sufficiently therefore do these examples shew the heinousnesse of Subjects lifting up themselves, and resisting the person of their Sovereigne, upon what pretence soever.*

Now while the severitie of these examples, and other passages of Scripture, iustly striking terrour into every soule, does make us wonder what great straight of humane affaires could be so violent an impulsive with us, as to make Christian Subjects contrary to sworne Faith, to Law, and to Religion, not onely disobey their Sovereigne, but resist, invade the soveraigne rights, and imploy their Sovereignes *Militia*, Shippes, Forts, Armes, Treasure, yea and his own sworne Subjects too against Him; truly all that the most searching thought can finde to secure his conscience with, against the horror of so foule a guilt, is, that otherwise we feare (or pretend to feare) that His Maiestie, seduced by evill Counsellours, by popishly affected Prelates, Courtiers, and Cavaliers, should destroy our Law, our Parliaments, our established Forme of Government, and change them into tyrannnie, and the true Protestant Religion into Poperie. This, this Feare or pretence of Fear alone is all the warrant we can finde for our unparalleled proceedings against our Sovereigne. And if this before the Tribunall of God, and of our own Lawes be not sufficient for our excuse, then have we



nothing to discharge us of the guilt of publique violence, robbery, murder, periurie, treason, resistance of the Ordinance of God, and of forcing others against their consciences by aſſault or aid to resist with us. Now all these evils are universally committed all over the Kingdome, and all these evils upon no other warrant done, than that the good of Reformation ( as is pretended ) may come thereon. So make we the Word of God of none effect, while we entertain and preferre the Jesuitique tradition before it, and maintain that what is for the good of the Church must be done, notwithstanding any bonds of dutie, of Faith, or Oath whatsoever to the contrary.

And if we examine the grounds of this Feare, and what iust suspicion and probabilitie of such an innovation, as is pretended to be feared, is given. We see for our assurance to the contrary, that His Maiestie (after once He was truly informed of our grievances) condescended not onely to give us ease of them, but to make His Acts of Grace in them at once exceed the Acts of all His Predecessours since the granting of our *Magna Charta*; and did not onely in present relieve our sufferings, but (often invoking the Sacred Maiestie of God, as a severe Witnesse of His purpose for the time to come) tie Himselfe for ever to settle matters of Religion according to the purest times of the Protestant Church of *England* ( with such ease for tender Consciences, as by a lawiull iudgement of the Clergie should be iudged fit ) and to governe according to the known Lawes of the Land. Here is little signe of one led by evill counsaile, or of a minde that would subdue Law & Religion to the satisfaction of His private will. This shewes our Fear to be both groundles and wicked; and indeed, after this if iealousie it selfe could yet make scruple of any thing, how easie were it for the wisdom of the Bodie Representative, by preparing a Law of severitie against the instruments of innovation, exposing their persons and fortunes to certain ruine, nullifying the innovations themselves, and discharging the Subject from all obedience and conformitie unto them, to have secured the Kingdom against all manner of fear

in that kinde, when as His Majestie freely offers His Gracious assent to any Act that should in that behalfe be necessary.

But (if what cause, what ground, what reason of dutie soever we finde, though constantly and universally received for true, both by the judgement of our Law, and by the authoritie of our Religion, we must notwithstanding reject all to believe the all-concluding judgement of the Bodie Representative, whom we never knew to have such Supremacie of iudgement, till it selfe bearing witnesse of it selfe did tell us so) it cannot yet but make much to the satisfaction of the conscience, to examine how well the two Houses, now sitting, do attain the condition of a full and free Assemblie of the two Houses of Parliament, that pretend to have such iudgement.

And first it is known that the House of Commons now sitting, however elected, was never yet perfected by a right determination of Elections, but that some set as Members there that ought not to have been returned, and some are not received that yet were rightly chosen, some are excluded for having hands in Monopolies, and proicets; and others (as much interested in them) for their assured affection retained: the greatest part of both Houses, by meanes of popular menacings, tumults, boasting up of names, branding men with the name of Malignants, (things never known before in Parliaments) and again undeserved expellings from the House, or imprisonings, have been so over-awed, that they have been forced to suppress their Votes, to give them contrary to their iudgements, to hide themselves, or to flie from the Houses; the residue of both Houses, (and among them the Knights and Burgesses which the Countries sent to reside in Parliament; that there the whole Representative advising together, might with the more safetie Vote and consent for us) they make over their Countries trust to a few Committees of their own, and wholly betake themselves to marriall Offices and employments, exercising in them a new found arbitrary power over those that sent them. And then the remainder of the Peeres and Commons (which are  
scarce

scarce a fourth part of them) call themselves the Parliament, and all the known rights of Sovereignitie does this Epitome of Parliament assume unto themselves and exercise; yea, the House of Commons alone (notwithstanding their Protestation to God for the Defence of the Lawes and Libertie of the Subject) by warrant under their Speakers hand, beyond all Law and example, imprison Subjects, that were never Members of their House, and deny them their *Habeas Corpus*. And not onely invade the Libertie of the Commons, but presse upon the House of Lords, the voicing of things which in a full House they had before, upon mature advice, orderly rejected. They seconded a tumultuous Petition that demanded the names of the Lords that had dissented from the Commons House, though the dissenters were the *major* part of the House of Lords. This Epitome of Parliament hath taught that which never Parliament knew before, That their Members may not without the Order of their House be restrained, no not for Treason. And, professing tender care of the Kings Honour and safetie, hath authorised Bookes, wherein His Sovereignitie is made subject to the Representative of His Subjects, and wherein the deposing of our English Kings by their Subjects is declared warrantable; and upon the authoritie and warrant of this Parliament must the poor Christian Subject that is under their power (against his Conscience) act and give aide to the Armie, which against the Kings expresse Command and Proclamations they have levied; when though conscious horror and shame will not suffer it to be acknowledged to be raised against the King, yet are their Souldiers sure they shall meet with no other opposite than with their rightfull Sovereigne, and His Followers arming for the safetie of His Person, for defence of the iust rights of the Crown, for the due Priviledges of the first of the three Orders of Parliament, and for the necessary power wherewith He is to protect Religion, Lawes, and Subjects of His Kingdom. Who that makes conscience of what he does, as one that must make account for it before the

The Book  
of Obser-  
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great Tribunal (where a little integritie (though now despised) and a little innocence of cause shall bring one more support than either King on the one side, or Parliament on the other, or Armie on either side) who (I say) thereof mindfull, can against the thousand witnessses of his conscience, recede from the dutie which all his life, till now, hath both by Law and Christian Religion been inculcate to him, and reiecting all, cast himselfe soule, bodie, and fortunes, wholly upon the new-found warrant of strangely conditioned apparition of Parliament.

These, and other particulars that may be instanced in, take off the confidence and repose that one would otherwise have in the two Houses, especially when they (setting on foot claimes and pretences, not agreeing with the dutie that men from their youth have found their consciences ever bound unto) go not the faire and open way of satisfaction, to have in so high concernments the Parliament Rolls as freely and fully searched on the Kings behalfe, as on the Parliaments, and to have their new and strange learning, as freely argued by the Kings Councill, and by the Judges, as by the instruments of the Parliament: but as the Papacie, in invading the Sovereignitie of the Church, Voted her selfe into the Supremacie, and then suppressed all examination of the Truth by damning all Writings to the contrary, and branding the Authours and users of them with the name of Heretickes: So we invading the Sovereignitie of our own State, Vote our selves into it, brand with the name of Malignants, all that concurre not with us in it, interdict them the freedome of search and discoverie of the Truth, and damne their Writings as scandalous and seditious Pamphlets; and so making them Vote-convicted State Heretickes, We thenceforth hold no Faith nor Truth to be kept toward them, but prosecute them as Enemies to the State, for no other offence but because we have made them Malignants, popishly affected, dissolute, desperate, blood-sucking Cavaliers and plunderers.

Yet truly, if we consider the qualitie of them that adhere unto His Maiestie and to His Cause do now lie under that censure



sure, we shall finde them the flower and greater part of our Nobilitie and Gentrie of the Kingdome, the greater part of His Majesties Honourable Privie Counsell, yea and of His Great Councell too, even of the Peeres and Commons, the chiefe of the Judges, and with them the opinion of the residue even of that whole Profession, the spirits and prayers of the farre greatest part of the Clergie, and the hearts of the greater part of the most substantiall men of the Commonaltie, whose soule and conscience, presented with the consideration of these things, would not shrink with inward horrour to thinke he should either attempt or give aide to the cutting off (not like *David*, of a lap of his Soveraignes ordinary garment) but of this lively apparrell-politique of his Soveraigne, wherewith for safetie, as well as ornament, His Majestie is now begirt, nay, to cut off the very limbes of his Civill bodie, and not without eminent danger to His Sacred Person, how loud and frightfull would the spirit of *David* crie in the eares of his guilty conscience, *The Lord forbid I should do this thing to lift up my hand against the Lords Anointed.*

O, but Religion is now at stake, and it is not to be believed that popishly affected Counsellours and Commanders with the helpe of a popish Armie should so much forsake their own ends as to fight for Establishment of the true Protestant Religion: truly it is sincerely confessed, it is not likely, and therefore I shall never believe that the Designe of Reforming our Religion by the hands of Brownists, Anabaptists, and Sectaries, (which by a constant and credible report, is believed to have been so much fostered and advanced by the Cardinall *Richelieu* and the late French Embassadour, as that *Chambers* the Cardinalls Secretarie was on purpose sent into the *Scottish* Armie here in *England*) was ever with intent of Establishing the true Protestant Religion, or that for the Protestant Religions sake, the death of the Cardinall was by some of our active Parliament men (in our hearing) lamented as of a great friend of the Parliament, or that the great correspondence and intercourse observed

served to be between the late French Embassadour and Master *Pym*, was for the advancement of the Protestant Religion. But where is any popish Armie, under the conduct of popish Commanders, that, according to the Designe of popish Counsellours, is likely to oppresse the Protestants, and advance Poperie?

Certainly, both his Maiestie, and his Protestant Followers are well assured, that not any part of the Warre is managed by the Designe of persons that are so affected; but who knowes not the ground of calumnie? The King must either denie his Subiects that are Papists the protection of his Armie, and refuse their aide and service, or else their aide and service must make his Armie a popish Armie: surely, not to admit ~~them~~ into his Armie, when they cannot otherwise be safe, were uniuersally to deny them the protection of Subiects, and to spare them (either in their personall or pecuniarie assistance) were with inequality toward his Protestant Subiects, and with danger to their Cause, to refuse his needfull duties from the Papists: though therefore Protestants should never lay down their iea-lousie of the growth of Poperie, yet should they not let it so abuse them, as to make them believe they have no danger to feare but onely Poperie; especially now when Schisme and Sectarisme do with such authoritie invade us, and when nothing can more advance the bringing in of Poperie, if it be possible, than the confusion in Church and State that does inevitably follow them (the expectance whereof was the cause that made the Cardinall and the popish partie from beyond sea so effectually labour the promoting of them.) Undoubtedly, if Poperie be at this time to be feared, it is to be feared from the prevailing of Schismatickes by the Designe and manage of so potent and active forraigne Instruments of Poperie; and it would returne with comfortable satisfaction to our consciences, that having for a feigned feare of Poperie engaged our selves in reall Rebellion, we should finde our paines rewarded with the felicitie of becomming instruments of the euill that at so deare a rate we did unnecessarily resist.

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When in every thing considerable to resolution, the conscience is on every hand so strongly beset with reasons, all concluding for obedience to our Sovereigne, and for our utmost assistance to His Cause. How weak is the sole Authoritie of an imperfect representative of Peeres and Commons, so to possess the conscience with perswasion to the contrary, as upon it to venture the present and eternall safetie of ones selfe, and of so many thousands in our *Israel*.

But say that this world were onely to be considered in the businesse, let us yet but see what must needs be the event, in case the Parliament Forces (which God forbid) should prevaile; either they must leave the Sovereignitie in the King as it was before, and content themselves with strict Lawes against all grievances that may be feared in Religion or in Government: (and then they bring no more to passe then what His Majestie, before their Warre, did of himselfe, and does yet graciously offer) or else they must take the soveraigne power from the King into their own hands, and leave him no more (at most) than the contemptible name of King, then shall we loose our old legall Government, and be governed by the absolute arbitrary and tyrannicall way of their Votes, and they, to secure themselves in that new and uncouth way of Government that they must institute, must (to the overthrow of Trade, and intolerable burthen of the Subject) keep the Kingdome under perpetuall Garrisons; and then what with the Faction and discord of our ambitious New-States, what with the unrulinesse of the commanding Souldier, and what with the attempts of those whose fidelitie will ever excite their utmost endeavour for their Sovereignes never dying right, we shall fall into an incessant Civill Warre, (untill the Kingdome being ruined) the Sovereignitie returne into the hand to which it rightfully belongeth.

Unles therefore it please God, that our great *Metropolis* of *London* (partaking rather of the wise spirit of the men of *Abel*, than 2 Sam. 20. 16. of the obstinacie of *Gibeah* the *Benjamite*) shall either deale so  
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effectually

effectually with those that there reside in shew of Parliament, as that they bring them to yield to the equalitie of a free and legall Parliament, and so provide against future grievances, without any violation of the Rights of the Crown: or else, (in case they refuse) shall like the *Amelites*, deliver unto the King Judges 20 the Heads of those Opposites that rise up against Him. We may assure our selves that that Citie like those of *Gabeah* and *Benjamin*, are hardened to all our *Israels* punishment, and to their own destruction, and may (as they did) prevaile once, and again, against the residue of the Kingdome, untill they have fulfilled Gods determined Visitation upon the Land, and then consummate all with their deplorable destruction.

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*FINIS.*

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A  
DISCOVERIE  
OF  
LONDONS  
OBSTINACIE,  
AND  
MISERIE.



Here hath been many Admonitions sent from His Majestie, advising that Citie of their own preservation, yet they have continued stubburne, though they cannot but see the hand of the Lord to assist all the King's Majesties proceedings, whereas their actions are so farre from prosperitie that they winde themselves wilfully, and force others ignorantly, into miserable adversitie.

Furthermore, *though* God hath manifestly fought *against* the Rebels *for* the King, giving Him Victorie in many Battailles, when all humane helpes and advantages were on the Rebels side, *though* God hath miraculously, and beyond the hope of man restored unto Him the *hearts* of the people, (which the Heads of this Rebellion by slander had stolne from Him: ) *though* from small and contemptible beginnings in the eyes of



His Enemies (*few or none standing for Him, but God and the Justice of His Cause*) God hath prospered him into many mighty Armies, which render Him formidable to the proudest, and stoutest of the Rebels; *though every Victorie hath been seconded by a tender of Peace, and with an overture of Pacification, so that as Himselfe speakes in that Declaration published July 30 1643. He could not probably fall under the scandalous imputation which hath usually attended His Messages of Peace, that they proceed from the weaknesse of His Power, not love of His People.* Lastly, *though like an indulgent Father of rebellious Children, He hath counted this Crime, and mowed it, by many pardons, many, and often repeated Acts of Grace and Favour to recall us to our former Loyaltie, (if ever we were Loyall) yer, inconsiderate, unthankfull wretches as we are, we over-look, or sleight all these invitations, for instead of returning, we have added this, as the complement of our other Rebellions, that (whether more unthankfully or undutifully, I cannot tel) we have cast dirt in our Sovereignes face, and slandered the footsteps of Gods Anointed, as if He were guiltie of all those Miseries, which at this time threaten the subversion of this Nation: we will no longer wound the King secretly, through the sides of his evill Counsellors, or Cavaliers, but charge Him directly, and point blanke, as in that most seditious Declaration, or whatever you will call it, presented by Sir David Watkins, and that broken Citizen, out at elbowes, called Satten Shute, to the Common-Councell, and by them to the remainder of the Lower House, if it be not breach of Priviledge to call it so.*

*How willing have we, obeyed every Commandment, except God and the Kings? How forward have we been to employ the large Revenues of our severall Companies, and Brotherhoods, (as heretofore to excessse, and gluttonie, so now) to support this Rebellion? How ready, even beyond our abilities, have we been to submit to every Taxe, and illegal Imposition, even to the bondage & slavery of Excise, by which we are not so much Proprietaries of our own, as Stewards, or Cashiers to the heads of*

of the Rebellion; and all this, to no other end but to keep up the Rebellion: we have not onely protected, and supported the Kings *mortall Enemies*, but as much as in us lay, have persecuted all His *Friends*, or, if but suspected to stand well affected to Him, and the Justice of His Cause, not sparing the effusion of *innocent blood*, as that of Master *Tomkins*, and Master *Chaloner*, which, like the blood of *Abel*, calls loud to Heaven for vengeance, on this bloody Citie, and questionlesse will in time be heard, for not content to buy these mens bloods with great summes of monies, which could not be advanced but on this condition, that Master *Tomkins*, and Master *Chaloner*, be delivered up to their pleasure, and murdered for a strange *Conspiracie* called *Obedience to the King*, but being dead, in an unheard of barbarousnesse they presse into the houses, where their dead bodies lay, before their Funerals, and thinking they could never be *sure* enough of so great a *guilt*, they will not believe that they are dead, unlesse they force the houses to see the bodies of them whom themselves had murdered; insomuch, that to avoid further violence and rage of the Citizens, they were faine to set open the doores where their bodies lay, and expose them to the view of all, that so they might glut themselves with beholding that sad spectacle which themselves had made.

That the Kings Gracious offers of Peace have been skighted, and rejected, with scorne, and contempt, and His Messengers that brought them (contrary to the Law of Armes and Nations) imprisoned; That those miserable distractions, which have rent and torne this flourishing Kingdome, are so farre from being closed, that they are rather made wider; That the Sword of War, so long devouring, is not yet sheathed, except in one anothers bowels; That this Kingdome is still made the Scene of Murthers, Rapines, Oppression, and Plunderings, and whereon all the horrid acts of rage, and injustice are every day acted, and the Nation put almost out of hope, ever to enjoy her former Peace and Plentie, is *our* fault, and *ours* wholly: Had not the *Root* of this Rebellion been animated by this Citie, and

encouraged by promises of more Supplies of Men and Monies, they had long before this laid down their Armes, and come with halters about their neckes, and cast themselves at the Kings feet, submissively begging those Pardons, which they have presumptuously rejected : Time was, when the *two Houses* gave a Law to the *Citie*, now it is come to that passe, that the *Citie* prescribe to the *Reliques* of the two Houses ; They must not conclude of *War* or *Peace*, without consulting the *Citie*, if they doe, they reckon without their Host.

Nay, though *Fairfax* be utterly routed in the *North*, and *William*, once surnamed a *Conquerour*, be totally defeated in the *West*, yet can they neither be persuaded, nor beaten into thoughts of Peace. On the 20<sup>th</sup> of *July* last, no longer ago, many Thousands (as the printed paper tells you) preferred a Petition to the House of Commons, presented by *M. Norbury*, of the *Cursitors* Office, and *John Hat* an Attorney of *Guild-hall*, both pernicious men, which as it evidently shewes their obstinate aversion from Peace, so it is the most desperate devilish slander, that ever yet durst look the world in the face, for first, they tell the House of Commons, and in them the world, *That the King without any touch of conscience, and in defiance of God, hath raised an Armie of Papists, Outlawes, and Traitors, for Robbing, Burning, Murdering, and Destroying of His Religious, Honest, and well meaning People.* And then knowing not onely their interest in, but their power over the House of Commons, they do not so much *Petition*, as *Command* them to accept of their assistance, for the raising a new Armie, and in expresse termes prescribe unto them, and limite them to a *Committee* of their own nomination, for the seizing and receiving of such summes, as the *willing* shall thinke fit to offer, or they shall thinke fit to extort from the *unwilling* for this service : and that you may judge of the whole bunch, by some, they name *Pennington* the pretended Lord Maior, *Strood* one of the five Members, *Harry Martin* Plunder-master Generall, and *Denis Bond* Burgesse of *Dorchester*, and *Patriarch Whites* own disciple, a man of a double capacitie to be a *Rebell*,  
and

and finding themselves more *alone* in these undertakings than they did imagine, like desperate Traitors, they call on the whole Kingdome, as one man, according to the intent of the late Covenant, to joyne with them in this Rebellion. And having thus taken a course to raise new Forces, on Saturday the 29<sup>th</sup> of July, at a Common Hall, they Voted Sir William Waller, General of their new intended Armie, whom to indæare the more, they interest him in the Government of the Citie, hoping that being as mad as his Ladie, he will hold up the Rebellion, as long as he can, and then be one of the last to run away; I mean not from *Battle*, for in that he hath shewed himselfe as forward as the foremost, but from *Justice*, and the due reward of his disloyaltie. By all which it is most evident, that this *Languishing Rebellion* had before this day gasp'd its last and given up the ghost, had not this rebellious Citie by its *wealth* and *multitudes* fomented it, and given it life.

If therefore *Posteritie* shall aske, who broke down the bounds to those streames of blood, that have stained this earth, if they aske, who make Libertie captive, Truth criminall, Rapine just, Tyrannie and Oppression lawfull, who blanch'd Rebellion with the specious pretence of Defence of Lawes and Liberties: War with the desire of an established Peace, Sacriledge and prophanation, with the shew of Zeale and Reformation. Lastly, if they aske who would have pulled the Crown from the Kings head, taken the Government off the hindges, dissolved *Monarchie*, enslaved the *Laies*, and ruined their *Countrie*, say, 'Twas the *Proud, Unthankfull, Schismaticall, Rebellious, Bloodie Citie of London*; so that what they wanted of devouring this Kingdom by *cheating* and *conzening*, they mean to finish by the Sword.

That therefore these dangerous *Defusions*, and continuall (not small *Distillations*) but *Floods* of Men, Money, Ammunition, and Armes, descending from the *Head Citie*, and *Metropolis* of this Kingdome, may not for ever dissolve the nerves, and



*taxes* the Sinewes of this admirable composed Government; it will highly concerne this Nation to look about them, to undeceive themselves, and to consult their own *Peace* and *safetie*, by joyning with their Gracious Sovereaigne, in *chastizing* these rebellious insolencies, and reducing this *stubborne* Citie of *London* either to *obedience* or *ashes*.

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*FINIS.*

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